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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,731	08/22/2002	Karl Heinz Schmid	C 2079 PCT/US	4546

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COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,731

Applicant(s)

SCHMID ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-24-03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Receipt of IDS dated 10-24-03 is acknowledged.

Claims 1-11 have been canceled. Claims 12-23 have been added by preliminary amendment and are pending in the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/15138 (WO) in combination with EP 258 814 (EP).

Instant claims 12-17 are directed to a composition comprising an alkyl and/or alkenyl oligoglycoside and a foam stabilizer selected from the group of dicarboxylic acid monoester, or dicarboxylic acid monoester salts or mixtures thereof. Claims 18-23 are

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directed to a process of enhancing the dermatological and ophthalmic mucus membrane combability of a cosmetic composition with the above composition.

WO discloses a composition comprising alkyl polyglycoside, wherein the composition is used for cleaning hair and/or skin. WO teaches alkyl polyglycoside that is similar to that described in the instant application (page 7). In addition to alkyl polyglycoside, WO teaches an additive such as alkyl sulfate, carboxylic acids including their derivatives and salts, aliphatic sorbitan esters, Guerbet alcohols etc (page 6). WO does not teach dicarboxylic acid esters of the instant claims. However, WO teaches that alkyl polyglycoside compounds due to their nonionic character, have a synergistic relation with other surfactants and produce high foam.

EP teaches a surfactant composition comprising tri and dicarboxylic acids such as citric acid, malic, tartaric acids (formula I) and more particularly the esters of these acids. The esters of carboxylic acids such as citric, tartaric and malic acid are described on page 4 and meet the description of instant claims. EP teaches that the esters derived from dicarboxylic and tricarboxylic acids are efficient as surfactants even at low percentages and also less irritating to skin and eyes (page 6, lines 1-3). It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to combine the esters of di- and tricarboxylic acids of EP with the alkyl polyglycoside surfactants of WO so as to produce surfactant compositions that are less irritating to skin, hair as well as eyes, when used because WO teaches alkyl polyglycosides are not irritating and produce high foam as surfactant, whereas EP teaches the carboxylic acid esters as highly biodegradable, biocompatible, compatible with other surfactants and

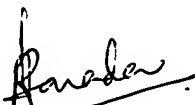
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are less irritating to skin and eyes. Thus, both EP and WO are analogous in their teachings of highly efficient surfactants, with good wetting and foaming power and accordingly the motivation to combine the analogous teachings flows logically and therefore, one of an ordinary skill in the art would be motivated to use the composition of WO in combination with the esters of EP, with an expectation to improve detergent power and yet avoid irritation to skin as well as eyes. For claims 17 and 23, EP does not teach adipic acid. However, absent any criticality, it would have been obvious for a skilled artisan to choose the length of a dicarboxylic acid, of the dicarboxylic ester without losing the advantages taught by EP.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
Art Unit 1615
March 19, 2005